IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.12526 of 2004

Between:

A.C.Sridhar, S/o.Chitti Babu,
R/o.Pittalavari Street, Srikalahasti town, Chittoor Dist.

..... PETITIONER

AND

1 The Commissioner of Endowments, A.P., Tilak Road, Hyderabad.
2 The Executive officer, Srikalahasteeswara Swamy

Temple, Srikalahasti, Chittoor Dist

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, direction or writ, more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent in trying to demolish the houses of the petitioner bearing Door No.849, 850, 851 and 852 situated in Ward No.4, Pittalavari Street, Srikalahasti Municipality as illegal, arbitrary, without any authority of law or jurisdiction, violative of principles of natural justice and also violative of Articles 14, 21 and 300-A of the Constitution of India and consequently direct the respondents not to demolish or in any way interfere with the peaceful possession and enjoyment of the petitioner in respect of the above houses without following the due process of law.

Counsel for the Petitioner: MR.V.SUDHAKAR REDDY

Counsel for the Respondent No.1: GP FOR ENDOWMENTS

Counsel for the Respondent No.2: MR.V.VENUGOPALA RAO

The Court, at the admission stage, made the following:

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THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 12526 of 2004

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O r d e r:

Heard the learned counsel for the petitioner, the learned Government Pleader for respondent No.1 and the learned Standing Counsel for respondent No.2-Temple.

The petitioner claims to be the owner and possessor of the premises bearing Nos. 849 to 852 in Ward No.4, Pittalavari Street, Srikalahasthi Municipality, and constructed therein by obtaining permission from the Municipality. The petitioner states that when he was a minor, his father purchased the said houses in his name under registered sale deed dated 23-9-1977 from his vendors, who purchased the same from their vendors in 1965 under a registered sale deed. The petitioner states that while he is in enjoyment and possession of the same, the staff of respondent No.2-Temple came to his house on
17-7-2004 and attempted to demolish the houses on the ground that Endowments Department intended to raise some structures. Hence, the petitioner filed the present writ petition.

The learned counsel for the petitioner submits that the petitioner is the owner and possessor of the houses, and respondent No.2-Temple without issuing any notice and without acquiring the land under the provisions of the Land Acquisition Act, 1894 and without paying any compensation, at the instance of some political leaders, sought to demolish the said houses, and raise some structures therein, which is illegal and arbitrary.

On behalf of respondent No.2-Temple, its Executive Officer filed counter. The learned Government Pleader for Endowments and the learned Standing Counsel for respondent No.2-Temple submitted that the land in which the petitioner constructed houses and living therein, forms part and parcel of the land in an extent of Ac. 20-00 in Sy. No. 226 of Srikalahasthi, belongs to respondent No.2-Temple, and the sale deeds under which the petitioner's father purchased from his vendor, are void transactions. Respondent No.2-Temple is the owner of the land, and the petitioner is

an encroacher as the purchase made by the petitioner's father is without the consent of respondent No.2-Temple. Since the land belongs to respondent No.2-Temple, there is no need to acquire the same under the provisions of the Land Acquisition Act, 1894.

Though the petitioner is claiming that he is the owner and possessor of the houses, having been purchased by his father under registered sale deed 23-9-1977, the same is disputed by respondent No.2-Temple contending that the said land forms part and parcel of Ac.20-00 of land in Sy. No.226 of Srikalahasthi, which belongs to respondent No.2-Temple, and that respondent No.2-Temple is the owner of the said land and the petitioner is an encroacher, and the purchase made by the petitioner's father from his vendor are void. Whether, in fact, the land in question belongs to the petitioner or respondent No.2-Temple, or whether the petitioner constructed the house in the land belonging to him or respondent No.2-Temple, and whether the purchase made by the petitioner's father of the disputed land under registered sale deed is void or not, being disputed questions of fact, cannot be gone into in a petition under Article 226 of the Constitution, for decisions on such questions can be arrived at only after a full-dressed trial, which this Court does not undertake in a writ petition. The proper remedy for the parties is to approach the Deputy Commissioner of Endowments concerned under Section 87 of the Endowments Act, and get their disputes involved in this writ petition adjudicated.

Hence, the writ petition is dismissed with the above observations. No costs.

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N.V. RAMANA, J.

Date: 28th April, 2005.

KSR

To

1 The Commissioner of Endowments, A.P., Tilak Road, Hyderabad.
2 The Executive officer, Srikalahasteeswara Swamy

Temple, Srikalahasti, Chittoor Dist

3 Two CD copies

4 Two CCs to GP for Endowments, High Court of AP, Hyderabad (OUT)